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Letter dated 25 August 2016 from the Chair of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

In my capacity as Chair of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism, I have the honour to transmit the report of Armenia submitted pursuant to resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Amr Abdellatif **Aboulatta**
Chair
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Report of Armenia on the implementation of Security Council resolution 1373 (2001)

Fight against terrorism

1. On 26 May 2008, the National Assembly adopted the Republic of Armenia Law on Combating Money Laundering and Financing of Terrorism. The purpose of this Law is protecting the rights, freedoms, and legitimate interests of the society and the State through the establishment of legal structures for countering money-laundering and terrorism financing, as well as providing legal mechanisms for ensuring stability of the economic system of the Republic of Armenia. This Law regulates the relationships pertaining to combating money-laundering and terrorism financing, defines the system of bodies engaged in combating money-laundering and terrorism financing, the procedures and conditions for cooperation between these bodies, as well as the issues related to the supervision and to the imposition of sanctions in activities against money-laundering and terrorism financing.

2. On 22 March 2005, the National Assembly of the Republic of Armenia adopted the Law on Fight against Terrorism. This law defines the legal and organizational framework of the fight against terrorism in the Republic of Armenia and regulates the relations relating to the conduct of the fight against terrorism. The organization of the fight against terrorism in the Republic of Armenia shall aim at: (a) preventing, detecting, forestalling and curbing the terrorist activities and eliminating the consequences thereof; (b) protecting the humans, the public and the state against terrorism; and (c) detecting and eliminating the causes and conditions sustaining terrorist activities.

3. On 24 June 2004, the Republic of Armenia ratified the European Convention on the Suppression of Terrorism. The Convention is designed to facilitate the extradition of persons having committed acts of terrorism. To this end, it lists the offences that Parties undertake not to consider as political offences, or as offences connected with political offences, or as offences inspired by political motives, namely, acts of particular gravity, hijacking of aircraft, kidnapping and taking of hostages, the use of bombs, grenades, rockets, letter or parcel bombs, if their use endangers persons. Moreover, the Convention empowers Parties not to consider as a political offence any act of violence against the life, physical integrity or liberty of a person. It is expressly provided that nothing in the Convention shall be interpreted as imposing an obligation upon a Party to extradite a person who might then be prosecuted or punished solely on the grounds of race, religion, nationality or political opinion.

4. On 15 March 2004, the Republic of Armenia ratified the International Convention for the Suppression of the Financing of Terrorism. The objective of the Convention is to enhance international cooperation among States in devising and adopting effective measures for the prevention of the financing of terrorism, as well as for its suppression through the prosecution and punishment of its perpetrators.

5. The Republic of Armenia has acceded to the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds From Crime (ratified by the NA of the RA on 8 October 2003) and the 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the

Proceeds from Crime and on the Financing of Terrorism (ratified by the National Assembly on 18 March 2008). The Republic of Armenia has also acceded to the 1999 United Nations Convention for the Suppression of the Financing of Terrorism ratified by the National Assembly of the Republic of Armenia on 16 March 2004, the Financial Action Task Force (FAFT) 40 Recommendations on Money Laundering and 8 Special Recommendations on Terrorist Financing, the Security Council Counter Terrorism Resolutions. In accordance with recognized international standards corpus delicti of legitimizing (legalizing) illegally obtained proceeds (Article 190), terrorism (Article 217), financing of terrorism (Article 217.1), terrorism against the representative of a foreign country or international organization (Article 388), international terrorism (Article 389) are set out in the Criminal Code. Besides, according to Article 103.1 of the Criminal Code, the property derived from or obtained, directly or indirectly, through the commission of crime, the income or other types of benefit gained through the use of such property, the instrumentalities and means used in or intended for use in the commission of crimes, which have resulted in gaining property, the property allocated for use in the financing of terrorism, the income or other types of benefit gained through the use of such property, the objects of smuggling transported through the customs border of the Republic of Armenia as specified under Article 215 of this Code and, in case of non-disclosure thereof, other property of corresponding value, except for the property of bona fide third parties and the property necessary for compensation of the damage inflicted on the aggrieved party and the civil claimant due to the crime, shall be subject to forfeiture for the benefit of the state. By virtue of accession to the Council of Europe in 2001, the Republic of Armenia has a full member status in the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL). Since 2006, Armenia gained observer status in the Eurasian Group of Combating Money Laundering and Terrorism Financing. These structures are considered as FATF style regional bodies, which aim to ensure the implementation and enforcement of FATF 40 Recommendations. In addition, since 2007, the Republic of Armenia is a member of the Egmont Group of Financial Intelligence Units, which provides opportunity to cooperate and exchange information with financial intelligence units of more than 150 countries.

6. The terrorism financing (FT) offence was criminalized in the Republic of Armenia in 2004 under Article 217.1 of the Criminal Code. The FT offence covers any person who provides or collects property by any means, directly or indirectly, with the knowledge that it is to be used or may be used, in full or in part, for committing terrorism, any acts in Article 218 (taking hostages), or by a terrorist organization or an individual terrorist. The provision or collection of funds need not be committed in a wilful manner.

7. Targeted financial sanctions stipulated by the respective United Nations Security Council resolutions (UNSCR) are implemented through provisions set under the Republic of Armenia Law on Combating Money Laundering and Financing of Terrorism (AML/CFT Law). In the Republic of Armenia, the first AML/CFT Law was adopted on 14 December 2004 and entered into force on 30 March 2005. Later, in pursuit of eliminating the weaknesses and closing the gaps in the system, the second AML/CFT Law was adopted by the National Assembly of the Republic of Armenia on 26 May 2008 and entered into force on 31 August 2008. To reflect the changes and developments in the AML/CFT space, the Law of the

Republic of Armenia on Making Amendments to the AML/CFT Law was adopted by the National Assembly of the Republic of Armenia on 21 June 2014 and entered into force on 28 October 2014.

8. Article 28 of the AML/CFT Law provides:

1. The property owned or controlled, directly or indirectly, by terrorism-related persons included in the lists published by or in accordance with the United Nations Security Council resolutions, as well as in the lists specified under Part 2 of this Article shall be subject to freezing by customs authorities and reporting entities without delay and without prior notice to the persons involved. The state bodies or persons, which have legally defined powers to restrict (arrest, block, freeze, suspend) the possession, use and (or) disposal of the property, shall exercise their power in the manner established by the law whenever they disclose such property.

2. The Authorized Body,[1] on its own initiative or upon the request of competent foreign bodies, shall develop, review, and publish lists of terrorism-related persons. Posting such lists on the website of the Authorized Body shall amount to their publication. In case of having information on persons matching the definition of terrorism-related persons, the involved state bodies, including supervisory and criminal prosecution authorities, as well as reporting entities shall provide to the Authorized Body information on such persons for their inclusion into the lists specified under this Part.

3. Any person included in the lists of terrorism-related persons published by the United Nations Security Council resolutions may apply to the United Nations for delisting. Any person included in the lists of terrorism-related persons published by the Authorized Body may apply to the Authorized Body for delisting, and such application shall be considered in the manner established by the Authorized Body.

4. Freezing shall be revoked only by the Authorized Body, if the property has been frozen by mistake, as well as when the criminal prosecution body arrests the frozen property. Freezing of the property of the persons specified under Part 2 of this Article shall also be revoked whenever it is established that the person with frozen property has been removed from the list of terrorism-related persons.

5. A person shall be entitled to request from the Authorized Body access to frozen property to pay for his family, medical, and other expenses as defined by the resolutions of the United Nations Security Council. The decisions on such payments shall be made in accordance with the United Nations Security Council resolutions, if the name of the person is included in the lists of terrorism-related persons published by the United Nations Security Council resolutions.

[1] Under Point 7, Part 1, Article 3 of the AML/CFT law, the Authorized Body is the Central Bank of the Republic of Armenia. According to Part 2, Article 10 of the AML/CFT Law, the powers of the Authorized Body, except for those reserved for the supreme management body and the highest-level official of the Authorized Body, are exercised by a responsible structural unit — the Financial Monitoring Center — operating within the Authorized Body.

6. Upon freezing the property of terrorism-related persons, the reporting entity shall without delay proceed to recognize the transaction or business relationship as suspicious under Article 7 of this Law, and to file a report on suspicious transaction or business relationship. In case of freezing (arresting, blocking, or suspending) the property of terrorism-related persons, the state bodies and persons specified under Part 1 of this Article shall without delay notify the Authorized Body on that matter.

7. In the event of receiving an inquiry from foreign financial intelligence bodies or other foreign bodies on freezing property, the Authorized Body shall consider within the same day the grounds for the freezing request. Upon establishing sufficiency of the grounds for the freezing request, the Authorized Body shall make a decision, in the manner specified under this Article, on the freezing of the property.

8. Within 5 days from being notified about the freezing, the Authorized Body shall submit a notification to criminal prosecution authorities in the manner specified under Article 13 of this Law, except for the cases when the Authorized Body makes a decision on unfreezing in the manner established by the law.

9. For the purposes of this Article, the property of bona fide third parties, that is the persons who, when passing the property to another person, did not know or could not have known that it would be used or was intended for use in criminal purposes, including those of terrorism or terrorism financing, as well as the persons who, when acquiring the property, did not know or could not have known that it was the proceeds of a criminal activity, shall not be subject to freezing.

9. Armenia has further adopted the following legal acts:

- Rules for proposing persons or entities for designation under the lists published by or in accordance with the United Nations Security Council resolutions for designating persons or entities under the lists published by the Authorized Body (the Listing Rules), approved by the Decision of the Chairman of the Central Bank of the Republic of Armenia, No. 1/324 — A of 22 April 2015;
- Guidance on freezing of property of designated persons and entities, providing access to frozen property and related actions (Freezing Guidance), approved by the Decision of the Chairman of the Central Bank of the Republic of Armenia, No. 1/325 — A of 22 April 2015;
- Rules for Delisting of Terrorism-Related Persons Designated under the Lists Published by the Authorized Body, and for Unfreezing the Property of Terrorism-Related Persons (Delisting and Unfreezing Rules), approved by the Central Bank of the Republic of Armenia Board Decision No. 336 N from 2 December 2014;
- Chapter 2 of the Listing Rules provides the necessary mechanisms for identifying targets for designation, based on the designation criteria set out in the UNSCRs. Chapter 4 of the Listing Rules sets out the grounds for proposing persons/entities for designation. The grounds for proposal are the following: (1) the presence of a valid decision regarding dissolution or prohibition of

activities of an entity for the involvement in terrorism or FT; (2) the presence of a valid court judgment regarding a natural person for charges of terrorism or FT; (3) designation under lists published by international organizations; (4) the presence of a valid decision or court judgment of a foreign state in relation to (1) and (2); (5) other grounds permitted by fundamental principles of the Republic of Armenia. Chapter 5 of the Listing Rules sets out the procedures for listing.

10. The competent authority responsible for the designation of persons or entities that meet the criteria for designation as stipulated in UNSCR 1373 (2001) is the Central Bank of Armenia (the AML/CFT Law Articles 28 and 10, and the Listing Rules fully provide the relevant powers to the Financial Monitoring Center — FMC). Chapters 3 to 5 of the Listing Rules provide the mechanisms and procedures for identifying targets for designation pursuant to UNSCR 1373 (2001). The Authorized Body, on its own initiative or upon the request of competent foreign bodies, shall develop, review, and publish lists of terrorism-related persons (Part 2, Article 28 of the AML/CFT Law). Upon receipt of a request for designation, the Authorized Body shall within 3 business days analyse the information to identify grounds and criteria for designation. To that end, the Authorized Body may request information from other bodies (Chapter 5, Listing Rules). In the presence of reasonable grounds or reasonable basis for designation, the Authorized Body shall within 2 business days publish information on its official website, and if possible, notify the designated person or entity. The standard of proof applied when deciding whether or not to make a designation is set out in Chapter 4 of the Listing Rules.

Arms embargo

11. After the entry into force of the agreement on EEU signed on 29 May 2014, non-tariff regulations in foreign trade with third countries are applied in Armenia. Pursuant to Annex 1 of the Decree No. 30 of the Eurasian Economic Commission Board dated April 21 2015 the list of items prohibited in trade with third countries is defined. According to the point 1.6, the import to the customs territory of the EEU, the export from customs territory of the EEU, and the transit through customs territory of the EEU of civil weapon, its basic parts and ammunition is banned.

12. The Government decree No. 1308-N, dated November 12 2009, approves the list of the military purpose products,[2] defines the procedure of issuing licences for import, export, transhipment and brokering of military purpose products, samples of end user certificates and other documents necessary to conduct the activity (application form, quarterly report samples etc.).

13. On 3 July 1998, the National Assembly of RA adopted the Law on Arms. This law regulates the relations which arise out of the circulation of the civil service, as well as hand combat and cold war weapons in the territory of the Republic of Armenia. The aforementioned Law provides the limitations on the circulation of civilian and service arms, the right of the citizens to acquire arms, as well as the control over the circulation of weapons.

[2] The Republic of Armenia has not ratified the Wassenar Arrangement, however, the list of military purpose products has been prepared in accordance with it and is being regularly updated.

14. Prior to the Law on Arms, the Government of Armenia, on 26 October 1993, adopted the Decision on the Regulation of the Circulation of the Civil and Service Arms and their Bullets.

15. The Article 235 of the Criminal Code relates to the illegal procurement, transportation or carrying of weapons, ammunition, explosives or explosive devices. Article 236 provides criminal punishment for the illegal manufacture of weapons. According to the Article 239 of the Criminal Code, the negligent warehousing of firearms is criminally punished. Article 386 of the Criminal Code prohibits the manufacture or proliferation of mass destruction weapons.

16. The New Criminal Code was drafted by the Ministry of Justice. The Draft is in a stage of official circulation. According to the Draft of the Criminal Code, the new chapter was added which concerns Crimes against the illegal circulation of the arms and other dangerous substances and subjects.

17. Article 12.1 of the Law of the Republic of Armenia on Licensing settles the requirements and provisions to conduct the activities of importing, exporting, transhipment and brokering of military purpose products. According to the table defined by Paragraph 2 of Article 43 the above-mentioned activities are subject to licensing. The licence is issued by the Ministry of Defense of the Republic of Armenia.

Travel ban

18. On 21 March 2012, the National Assembly adopted the Law on Emergency Legal Regime. This Law provides the definition of the emergency situation, the legal basis of declaring the emergency situation, the procedure of declaring such situations, etc. Article 7 prescribes the measures and temporary restrictions on the rights and freedoms during the imposed state of emergency. Paragraph 1 of the aforementioned Article restricts the freedom of movement of persons, as well as establishes the special regime for those entering and leaving the territory, including the restrictions on the entry and location of foreign nationals and stateless persons.

Asset freeze

19. Article 926 of the Civil Code provides that limitation of the rights of the client to dispose of the monetary funds on the account is not allowed, with the exception of cases of seizure of the monetary funds on the account or stoppage of operation of an account in cases provided by a statute.